

together with the report of the Judiciary committee thereon, was read, and, on motion of Mr. Brashear, bill was laid on the table and made the special order for Tuesday, the 4th December.

On motion of Mr. Parker, the Senate adjourned.

SATURDAY, 9 o'clock, A. M., December 1, 1849.

The Senate was called to order by the President. Senators present: Messrs. Brashear, Davis, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Robertson, Truit, Van Derlip, Ward and Wallace. The journals of yesterday were read and adopted.

Mr. Wallace presented the petition of the citizens of Jasper county; which was read, and, on motion of Mr. Wallace, referred to the Judiciary committee.

Mr. McRae presented the petition of sundry citizens of Jasper county; which was read, and, on motion of Mr. McRae, referred to the Judiciary committee.

Mr. McRae, also, presented the petition of George Dougherty and other citizens of Newtown county; which was, on motion of Mr. McRae, referred to the committee on the Judiciary, without reading.

Mr. Wallace, chairman of the committee on Enrolled Bills, reported an act to establish the per diem and mileage pay of the electors of President and Vice President of the United States, and a joint resolution for the relief of Thomas Ward correctly enrolled, and that the same were presented to the Governor for his approval, on the 30th November.

Mr. Wallace presented the petition of William Shipp and Sarah Corzine; which was, on motion of Mr. Wallace, referred to the committee on Public Lands, without reading.

Mr. Portis, from the committee on Military Affairs, to whom was referred a bill to provide for the civil organization of the counties of Presidio, El Paso, Worth and Santa Fe, reported the same back to the Senate, with a substitute for the 4th section as an amendment in the following words:

*Be it further enacted,* That said Commissioner shall receive, for the performance of the duties required by this act, the sum of three hundred dollars, and the further sum of three dollars for

every thirty miles' travel in going to and returning from said counties, and a sufficient amount of money is hereby appropriated for that purpose.

Mr. Robertson, chairman of the committee on Federal Relations, to whom was referred a joint resolution instructing our Senators and requesting our Representatives to procure the establishment of certain mail routes upon which the mail shall be transported in coaches and hacks, reported the same back to the Senate, with the following amendment, and recommended its adoption and the passage of the bill.

Route No. 22. From Corpus Christi to Brownsville; once a week, in four-horse coaches.

Mr. Van Derlip introduced the following bills:

A bill to provide for deductions from the salaries of District Judges and District Attorneys who fail or neglect to perform the duties assigned them by law; a bill to define the time of holding the District Courts in the Eleventh Judicial District of the State of Texas, and a bill to establish the Eleventh Judicial District of the State of Texas; which were severally read first time.\*

Mr. Grimes introduced a joint resolution to authorize the Comptroller of Public Accounts to sell certain property pertaining to the late Republic of Texas; read first time.

#### ORDERS OF THE DAY.

A bill to amend the 3d section of an act to regulate the public printing; read second time, and, on motion of Mr. Wallace, referred to the committee on Finance.

A bill to provide for the permanent location of the seat of justice of Cass county; read second time, and, on motion of Mr. Latimer, referred to the committee on County Boundaries.

A bill to authorize the several clerks of the county courts in the State of Texas to take the separate acknowledgment of married women to deeds executed by them; read second time, and, on motion of Mr. Portis, referred to the committee on the Judiciary.

A bill to repeal an act for the relief of John S. Black and others; read second time, and, on motion of Mr. Brashear, made the special order of the day for Tuesday, the 4th instant.

A bill authorizing the Governor to subscribe for 1500 copies of a digest proposed to be published by O. C. Hartley, Esq.; read second time.

*Mr.* Kinney moved to refer the bill to a Select committee of five; upon which the yeas and nays were called, and stood thus:

Yea: Messrs. Brashear, Kinney, McRae, Robertson and Truit—5.

Nay: Messrs. Gage, Grimes, Hart, Latimer, Moffett, Parker, Pease, Phillips, Portis, Van Derlip, Ward and Wallace—12; lost.

The bill was then ordered to be engrossed.

A bill to provide the mode of adoption; read second time—question on the engrossment of the bill was taken and lost.

On motion of Mr. Brashear, the vote refusing to engross the bill was reconsidered; and, on motion of Mr. Gage, bill laid on the table until Monday, the 3d inst.

A bill to apportion the Senators and Representatives of the Legislature among the several counties of this State; read second time, and, on motion of Mr. Wallace, made the special order of the day for Friday, the 7th inst.

A joint resolution instructing our Senators and requesting our Representatives in the United States Congress to procure the establishment of certain mail routes upon which the mail shall be transported in coaches and hacks, together with the report of the committee on Federal Relations offering an amendment thereto, was read, and report adopted.

On motion of Mr. Robertson, the bill was laid on the table.

Mr. Portis introduced a preamble and joint resolutions, instructing our Senators and requesting our Representatives in the Congress of the United States to demand of the United States protection to the State of Texas from the domestic violence, and the immediate recognition of the Western boundary of the State of Texas as defined by the laws of this State and guaranteed by the joint resolutions of annexation; read first time.

Mr. Brashear introduced a joint resolution to appoint a committee to take into consideration the erection of a fire-proof Land Office; laid on the table for one day.

A message was received from the House of Representatives, informing the Senate that the House had adopted a substitute for a bill to authorize and empower all State, District and County officers to continue to perform the duties of their respective offices until their successors are elected and qualified, according to law, which originated in the Senate.

On motion of Mr. Pease, the bill was laid on the table and made the order of the day for Monday, the 3d inst.

A bill to provide for the civil organization of the counties of Presidio, El Paso, Worth and Santa Fe, together with the report

of the committee on Military Affairs offering an amendment was read ; amendment adopted.

Mr. Robertson moved to lay the bill on the table and make it the special order of the day for Monday, the 3d inst.; lost.

The bill was then ordered to be engrossed by the following vote :

Yea : Messrs. Brashear, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Truit, Van Derlip, Ward and Wallace—17.

Nays : Messrs. Cooke and Robertson—2.

A message was received from the Governor, presenting the following communication in writing ; which was read, and, on motion of Mr. Gage, referred to the committee on Finance.

EXECUTIVE OFFICE, November 30th, 1849.

*Gentlemen of the Senate:*

The Executive has the honor to acknowledge the receipt of a resolution of your Honorable body, requesting him to inform the Senate under what law or authority he ordered into the service of the State the two companies of troops referred to in his message, and his reasons for so doing, &c.

In reply he has the honor to say that, in May last, information of a most reliable character was received by him that the country around Corpus Christi and between that place and the Rio Grande was infested by large bodies of hostile Indians, who were committing almost daily extensive depredations and frequent murders upon the citizens of that portion of our State. The enterprising pioneers, who were attempting to form settlements in that quarter, were not only interrupted in their employments, but driven into the neighboring towns, in many instances compelled to abandon their burning homes and every thing they possessed.

It was, at the same time, known to the Executive that several companies of the United States troops, principally infantry and artillery, were stationed on the Rio Grande, but it was equally well known to him that this force, either from its injudicious disposition or from a want of adaptability, had proved itself utterly inadequate or unfit for the purposes of protection. That such was the fact was neither the fault of the officers or men who composed this force; it arose necessarily from the nature of their organization, belonging as they did to an arm of national defence, wholly unfit for the peculiar service required. They are unable to protect against such an enemy, moving uniformly on horse-back and with great celerity, any more than the space covered by their encampments or within range of their guns.

The Government of the United States was addressed directly upon this subject as well as its military officers in immediate command here. They were slow, however, to recognize the necessity of action, on their part, and the State was left no other resource against outrage and violence but an appeal to the patriotism of her own citizens to protect her territory against savage cruelty.

In this condition of things, when the cries of his fellow-citizens for help were reaching him every day; when every new messenger from that quarter was but the herald of some new outrage, of some more startling atrocity, the Executive never thought of appealing to the statute-book to ascertain the nature or the extent of his official duty. This was indicated to him with sufficient force and clearness by the common instincts of nature and humanity. We do not seek, in written codes, any authority or sanction for defending our persons and our property against aggression and wrong; it is an impulse of our nature older than the law, superior to all the guarantees of the constitution.

The same paramount right and duty attaches to him who is entrusted with the government of a State to employ its means to repel violence and protect it from injury. Aside from these considerations, it is believed by the Executive that, in accepting the services of these companies, he acted in strict conformity to the constitution. The fourth section of the sixth article of that instrument declares that "the Governor shall have power to call forth the militia to execute the laws of the State, to repress insurrection and repel invasion." The emergency, which he conceived to exist, may not technically be held either an insurrection or an invasion, but to the State and its citizens the consequences were the same; under this section, if the power exercised in the instance, under consideration, be not vested in the Executive, he confesses himself unable to understand either the force or the application of the language. If, however, it should be held that the constitution does not sustain him in the course he adopted, the Executive does not court, but will not shrink from condemnation, preferring far to be condemned for employing irregular means to do a praiseworthy act than to be commended for folding his arms, according to law, and looking with unconcern upon the sufferings of his fellow-citizens. Should your Honorable body adopt the opinion that the Executive in this instance acted improvidently, and without the sanction of law, he indulges the hope that this circumstance may not impair the claims of those whose services and means were placed at the disposal of the State to protect the lives and property of her people.

Should the Legislature fail to do this, we can have no reason to expect that the General Government will recognize the necessity of the call, or make provision for their payment, and the consequence will be that on future occasions, when the State may need the aid and services of her citizens, her call may be as coldly and indifferently responded to as she now responds to them.

I have the honor to be,

Your Ovt Serv't,

GEO. T. WOOD.

Mr. Grimes offered the following resolution :

*Resolved by the Senate, (the House concurring,) That a joint committee be raised, consisting of two Senators and three members from the House of Representatives, who shall be required jointly to apply to and receive from the Comptroller of Public Accounts all land scrip, loan bonds and other obligations issued by the late Republic of Texas, which are now remaining in the Comptroller's office, and have never been disposed of, and that they cause all such land scrip, loan bonds, &c., when received, to be publicly burnt and utterly destroyed, and report their proceedings to the two Houses of the Legislature"; adopted.*

Messrs. Grimes and Truit were appointed said committee.

On motion of Mr. Hart, the Senate adjourned.

MONDAY 9 o'clock, A. M., Dec. 3d, 1849.

The Senate was called to order by the President.

Senators present : Messrs. Brashear, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Robertson, Truit, Taylor, Van Derlip, Ward and Wallace.

Prayer by the Chaplain.

The journals of Saturday were read and adopted.

Mr. Grimes, chairman of the committee on Finance, to whom was referred a bill to exempt buildings and grounds designed and used for purposes of education and public worship, from taxation, reported the same back to the Senate and recommended its passage.

Mr. Grimes, from the same committee, made the following report :

The committee on Finance, to which was referred a bill to